

REMARKS

Claims 3-5, 7-20, and 23-27 are pending in the application. Claims 3-5, 7-20, and 23-27 stand rejected in this Office Action. Reconsideration of the application, as amended is requested. No new matter has been added. The examiner's rejections are considered in substantially the same order as presented.

Rejections under 35USC102

The examiner has rejected claims 20 and 23-25 under 35 USC102(b) as being anticipated by Forcier, US 1443986. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim, but this is not an *Ipsissimis verbis* test, i.e., identity of terminology is not required. *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990).

Forcier describes a cement block wall structure that provides air circulation passages between the inner and outer wall. Forcier has a "...blower 7 which, when in operation, will draw into the cellar the foul air from the rooms of the building and expel the same forcibly and positively through the outlet ventilating tube 2...". Page 1, lines 77-81. Forcier uses a screen to prevent birds and insects from entering the air passages (page

3, lines 50-57). Forcier also provides a blower 51, mounted on the roof, to force air through ventilator tubes such as 47 and 48 into the various rooms of the structure. Page 3, lines 5-60.

Forcier does not disclose, teach, or suggest at least one limitation of amended independent claim 20, such as, for example, "providing an air circulation system within the structure,...wherein the air circulation system comprises at least one of (i) a central mechanical air cooling device, (ii) a heating element, and (iii) a humidity control device." Nor does Forcier disclose, teach, or suggest, maintaining the air temperature in the air flow passage at substantially the same as the air in the open space, as claimed in amended claim 20. At least for these reasons, applicant asserts that claim 20 and claims 23-25 that depend on claim 20 are allowable under 35USC102 over Forcier.

Rejections under 35USC103

The examiner has rejected claims 3-8 and 26-27 under 35USC103(a) as being unpatentable over Goldsmith in view of Forcier. The examiner has stated that Goldsmith discloses "...the air passage channeling a conditioned air flow (by 8) in-between and substantially parallel to the internal wall section...". Applicant respectfully asserts that this analysis is incorrect. Goldsmith clearly states that outside air, that is cooled by evaporative cooler 2 and channeled through vertical ducts 26 in the walls, remains exterior to interior volume 6 of the dwelling at all times (col. 6, lines 23-67) The small, minimum power, window, or wall mechanical air conditioning unit is used to cool the interior space 6, not the flow through the walls col. 6, lines 28-33). In fact, a stated

objective of the Goldsmith is to remove the need for a primary central mechanical air-conditioning unit (col. 5, lines 25-33). Nor does Goldsmith disclose, teach, or suggest, maintaining the air temperature in the air flow passage at substantially the same as the air in the open space, as claimed in amended claims 5, 26 and 27. Clearly, Goldsmith, the primary reference, does not disclose, teach, or suggest the limitations of amended independent claims 5, 26, and 27.

The examiner has stated that Forcier teaches an insulated external wall, insulated by 30 and 32. Applicants respectfully disagrees with that analysis. Forcier describes 30 as a sheathing and 32 as an exterior finish (stucco). There is no teaching or disclosure that either is an insulating material.

For the above reasons, applicants assert that applicants amended claims 5, 26, and 27, and the claims dependent thereon, are patentable under 35USC103 over Goldsmith in view of Forcier.

The examiner has rejected claims 17-19 under 35USC103 as being unpatentable over Goldsmith in view of Forcier and further in view of Tedman. Amended claim 17 includes similar limitations as included in amended claims 5, 26, and 27. As such, as argued above, Goldsmith in view of Forcier does not teach or disclose the invention as presented in applicant's amended claim 17. Amended claim 17 and the claims dependent thereon are allowable under 35USC103 over Goldsmith in view of Forcier and further in view of Tedman.

Reconsideration of the application as amended is respectfully requested. The Commissioner is hereby authorized to charge any fee and credit any overpayment associated with this response to Deposit Account No. 13-0010(VAC-1001-US).

Respectfully submitted,



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